

Paul N. Tranel
Katie C. Guffin
BOHYER, ERICKSON, BEAUDETTE & TRANEL, P.C.
283 West Front, Suite 201
Post Office Box 7729
Missoula, Montana 59807-7729
Telephone: (406) 532-7800
Facsimile: (406) 549-2253
Email: mail@bebtlaw.com

Attorneys for Defendant

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MONTANA
GREAT FALLS DIVISION

KYLEEN ELPTEL,
Plaintiff,
-vs.-
NATIONAL FARMERS UNION
PROPERTY AND CASUALTY
COMPANY,
Defendant.)
Cause No. _____
THE HON. _____
**DEFENDANT NATIONAL
FARMERS UNION PROPERTY
AND CASUALTY COMPANY'S
NOTICE OF REMOVAL**

Defendant National Farmers Union Property and Casualty Company alleges as follows:

1. The above-entitled action was filed in the Montana Eighth Judicial District, Cascade County, on May 18, 2018, and is now pending in said Montana District Court.

2. The Summons and Complaint filed in this matter were served upon the Commissioner of Insurance for the State of Montana on or about May 21, 2018. The Commissioner of Insurance for the State of Montana served Defendant National Farmers Union Property and Casualty Company on May 25, 2018.

3. Upon information and belief, and per the allegations contained in the Complaint, at the time of commencement of this action, the Plaintiff was and is now a resident and citizen of Cascade County, Montana.

4. At the time of commencement of this action, the Defendant, National Farmers Union Property & Casualty Company, was and is now a corporation organized and existing under the laws of the State of Wisconsin with its principal place of business in Sun Prairie, Dane County, Wisconsin, and was and is now authorized to do business in the State of Montana.

5. This is an action over which this Court has original jurisdiction under 28 U.S.C. § 1332(a)(1), and thus this action is removable to this Court under 28 U.S.C. § 1441(a) and (b).

6. The amount in controversy claimed by Plaintiff in this action, exclusive of interest and costs, on the basis of the allegations set forth in Plaintiff's Complaint, exceeds Seventy-Five Thousand Dollars (\$75,000.00). Additionally, on the basis of paragraph 33 of the Complaint filed by Plaintiff, wherein punitive damages are sought, the amount in controversy claimed by Plaintiff in this action, exclusive of interest and costs, exceeds Seventy-Five Thousand Dollars (\$75,000.00). *See Bell v. Preferred Life Assur. Soc'y*, 320 U.S. 238, 240, 64 S. Ct. 5 (1943) (finding that a punitive damage demand may be considered as part of the amount in controversy in civil action).

7. Evidence of jury verdicts in similar cases may be considered to determine the amount in controversy. *Simmons v. PCR Tech*, 209 F. Supp. 2d 1029, 1033 (N.D. Cal. 2002). Juries in the State of Montana have awarded more than Seventy-Five Thousand Dollars (\$75,000.00) in punitive damages in cases alleging violations of an insurer's duties. *See Stormont v. National Union Fire Ins. of Pittsburg*, Montana Eighth Judicial District Court, Cascade County, Montana, Cause No. ADV-96-720 (enforcing the parties' settlement of the bad faith case for \$1.5 million as the jury returned its verdict, which included a \$600,000.00 punitive

damages award against one defendant and a \$500,000.00 punitive damages award against another defendant).

8. A copy of the Complaint filed in said Montana District Court action is attached hereto and marked as **Exhibit A**. Copies of all other pleadings which have been filed in the state court file will be forwarded by the Clerk of the said court.

DATED this 22nd day of June, 2018.

/s/ Paul N. Tranel
Paul N. Tranel
BOHYER, ERICKSON,
BEAUDETTE & TRANEL, P.C.
Attorneys for Defendant

CERTIFICATE OF SERVICE

I, the undersigned, a representative of the law firm of Bohyer, Erickson, Beaudette & Tranel, P.C., hereby certify that I served a true and complete copy of the foregoing on the following persons by the following means:

<u>1-2</u>	CM/ECF
<u> </u>	Hand Delivery
<u>3</u>	Mail
<u> </u>	Overnight Delivery Service
<u> </u>	Fax
<u> </u>	E-Mail

1. Clerk, U.S. District Court
2. Eric B. Biehl, Esq.
Church, Harris, Johnson & Williams, PC
114 3rd Street South
P.O. Box 1645
Great Falls, MT 59403-1645
Attorneys for Plaintiff
3. Clerk of the District Court
Cascade County Courthouse
415 - 2nd Avenue North, Room 200
Great Falls, MT 59401-2536

DATED this 22nd day of June, 2018.

/s/ Paul N. Tranel
Paul N. Tranel
BOHYER, ERICKSON,
BEAUDETTE & TRANEL, P.C.
Attorneys for Defendant